

§ 12.115 Release under bond.

If the completed Notice of Arrival so directs, a shipment of pesticides or devices shall be detained at the importer's expense by the port director pending an examination by the Administrator to determine whether the shipment complies with the requirements of the Act. However, a shipment detained for examination may be released to the consignee prior to a determination by the Administrator provided a bond is furnished on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, for the return of the merchandise to Customs custody. The bond shall be in an amount deemed appropriate by the port director. When a shipment of pesticides or devices is released to the consignee under bond, the shipment shall not be used or otherwise disposed of until the determination is made by the Administrator.

[T.D. 75–194, 40 FR 32322, Aug. 1, 1975, as amended by T.D. 84–213, 49 FR 41168, Oct. 19, 1984]

§ 12.116 Samples.

Upon the request of the Administrator, either on the completed Notice of Arrival or otherwise, the port director shall deliver to the Administrator samples of the imported pesticides or devices, together with all accompanying labels, circulars, and advertising matter pertaining to such merchandise. The port director shall notify the consignee, in writing, that the samples of imported pesticides or devices, together with all accompanying labels, circulars, and advertising matter pertaining to such merchandise have been delivered to the Administrator.

[T.D. 75–194, 40 FR 32322, Aug. 1, 1975]

§ 12.117 Procedure after examination.

(a) *Merchandise complying with the Act.* If, upon examination or analysis of a sample from a shipment of pesticides or devices, the sample is found to be in compliance with the Act, the Administrator shall notify the port director that the shipment may be released to the consignee.

(b) *Merchandise not complying with the Act.* If, upon examination or analysis of

a sample from a shipment of pesticides or devices, the sample is found to be in violation of the Act, the consignee shall be notified promptly by the Administrator of the nature of the violation and be given a reasonable time, not to exceed 20 days, to submit written material or, at his option, to appear before the Administrator and introduce testimony, to show cause why the shipment should not be destroyed or refused entry. If, after consideration of all the evidence presented, it is still the opinion of the Administrator that the merchandise is in violation of the Act, the Administrator shall notify the port director of this opinion and the port director shall either (1) refuse delivery to the consignee, or (2) if the shipment has been released to the consignee under bond, demand redelivery of the shipment under the terms of the bond. If the merchandise is not redelivered within 30 days after the date of demand by the port director, the port director shall issue a demand for liquidated damages in the full amount of the bond if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond. The port director shall cause the destruction of any merchandise refused delivery to the consignee, or redelivered by the consignee pursuant to a demand therefor, and not exported by the consignee within 90 days after notice of such refusal of delivery or within 90 days after such redelivery, as applicable.

[T.D. 75–194, 40 FR 32322, Aug. 1, 1975, as amended by T.D. 84–213, 49 FR 41168, Oct. 19, 1984]

CHEMICAL SUBSTANCES IN BULK AND AS
PART OF MIXTURES AND ARTICLES

SOURCE: Sections 12.118 through 12.127 issued by T.D. 83–158, 48 FR 34739, Aug. 1, 1983, unless otherwise noted.

§ 12.118 Toxic Substances Control Act.

The importation into the customs territory of the United States of a chemical substance in bulk or as part of a mixture, or article *containing a chemical substance or mixture*, is governed by the Toxic Substances Control Act (“TSCA”) (15 U.S.C. 2601 *et seq.*),